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FILED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Javier ALDANA-Rios,** Defendant	Magistrate Docket No. '07 MJ 2321 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **September 25, 2007** within the Southern District of California, defendant, **Javier ALDANA-Rios,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **26th** **DAY** OF **SEPTEMBER, 2007**

Anthony J. Battaglia
UNITED STATES MAGISTRATE JUDGE

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CONTINUATION OF COMPLAINT:
Javier ALDANA-Rios

PROBABLE CAUSE STATEMENT

On September 25, 2007 at approximately 8:10 A.M., Border Patrol Agent J. A. Moriarty responded to seismic intrusion device activation in an area known as Whiskey 10. This area is approximately three miles west of the San Ysidro, California Port of Entry and 200 yards north of the United States/Mexico International Boundary Fence. Upon arriving in the area Agent Moriarty observed three sets of footprints leading north through the area of Whiskey 10. Agent Moriarty began to follow the footprints and after a brief search discovered three individuals attempting to conceal themselves in thick brush. Agent Moriarty verified the footprints that he had observed and had been following matched the three subjects. Agent Moriarty identified himself as a Border Patrol Agent and questioned each of the subjects as to their citizenship. All subjects, including one later identified as the defendant **Javier ALDANA-Rios** freely admitted to being citizens and nationals of Mexico without having proper immigration documents allowing them to be or remain in the United States legally. The three subjects were arrested and transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **September 21, 2007** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda Rights and stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted to being a citizen and national of Mexico and that he was present in the United States without being in possession of any immigration documents that would allow him to enter or remain in the United States.